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spective of the consideration paid for them, are valid claims against the corporation to their full face value. If there has been a bona fide loan, the stock will be issued for the surrender of a valid claim of equal value with the par value of the stock. That a corporation's outstanding bonds may be considered as property for which paid up shares may be issued, seems contemplated by the New Jersey statutes. Under them a corporation may issue bonds convertible at par at the option of the holder into fully paid common stock at par within any period therein prescribed, not less than two years from the issue thereof, and in such case the board of directors may authorize the issue of the common stock into which such bonds by their terms shall be convertible. Laws 1902, ch. 58, p. 218. As convertible bonds are not excepted from the provision against pleading usury, *supra*, it would seem that they might be issued below par. There is, however, no decision on this point. The same result seems intended by the New York statutes. Rev. Stat. (1901) Stock Corporation Law § 2 and the Interest Law, *supra*. In Indiana the conversion would be lawful at any time. Ind. Rev. Stat. (1901) §§ 3442, 3443.

FEDERAL TAX ON STATE LIQUOR DISPENSERS.—The Supreme Court has in a recent case limited the exemption of state agencies from national taxation, holding that the liquor dispensers of South Carolina were not a necessary agency of State government, and hence liable to the special tax imposed by the internal revenue laws. *State of South Carolina v. U. S.* (1905) 26 Sup. Ct. 110.

There is no express exemption of the agencies of the state or national government from taxation by the other. But the Constitution presupposes the co-existence of the national and state governments. And as the power to tax these means and agencies would involve the power to destroy them and thus work the destruction of the government itself, an exemption from taxation by the other government, is implied by necessity in the Constitution. *McCulloch v. Maryland* (1819) 4 Wheat. 316; *Pollock v. Farmers Loan & Trust Co.* (1895) 157 U. S. 429, 584; *Collector v. Day* (1870) 11 Wall. 113. An exemption by necessity goes no further than the necessity requires. Under this principle a tax that impaired or destroyed a means or agency not necessary to a government, would in no wise affect the protection implied in the Constitution. Whether a means or agency is necessary to a government would seem to depend both on the purpose for which it was established, and on its fitness for this object.

First as regards the exemption of the national government, it would seem that, as it may act only under the Constitution, and as the Constitution presumably grants only necessary powers, the means and agencies employed by the central government are all for strictly governmental purposes, and the question of fitness is the only one before the court. *Osborn v. U. S. Bank* (1824) 9 Wheat. 738; *Van Brocklin v. Ten-*

nessee (1886) 117 U. S. 151; *Dobbins v. Com'rs of Erie Co.* (1842) 16 Pet. 435. Of course only a tax which impairs the agency in its power to serve the government is prohibited. *R. R. v. Peniston* (1873) 18 Wall. 5. The exemption extends as well to a general tax as to one eo nomine, *Bank of Commerce v. N. Y.* (1862) 2 Black. 620, though in the earlier cases the taxes were all imposed eo nomine, *Weston v. Charleston* (1829) 2 Pet. 449.

The State government, on the other hand, being vested with residuary powers, may assume to engage in many transactions that are not necessary instrumentalities of government. Heretofore the courts have been liberal in the construction of what is a necessary and proper governmental function. Revenues of a municipal corporation derived from railroad bonds were held exempt. *U. S. v. Ry. Co.* (1872) 17 Wall. 322. In *Philadelphia v. The Collector* (1866) 5 Wall. 720, it was assumed but not decided that a municipal lighting plant would be exempt from Federal taxation, and it was generally supposed that a State railroad would be so exempt. 12 Opinion of Att'y. Gen. 277. The principal case would seem, however, to confine the exemption to its proper limits, that is to the necessary and proper means and agencies of government, which would, if taxable, be impaired in their efficiency.

It is recognized that the State of South Carolina here controls the liquor business by virtue of the police power used in its broader sense. *Vance v. Vandercook* (1898) 170 U. S. 438. The effect of the present decision is to determine that while the State of South Carolina, in taking over the liquor business to itself, may have been exercising proper functions under the residuary clause of the Constitution and within the police power, it was not thereby creating or exercising a necessary instrumentality of State government, and therefore is liable to the Federal government under the special revenue tax.

LIABILITY OF TRANSFEREE OF STOCK UNDER FORGED DEED.—What are the rights of a corporation against a person, who has been registered as a stock holder by the corporation upon presentment of a forged deed of transfer, and has assigned the stock, both parties having acted in entire good faith and without negligence?

Numerous seeming analogies and one true ground for liability have been suggested. First. It is held in Massachusetts that one who innocently presents a forged transfer to a corporation to have a certificate issued to him is in a position analogous to one who sells stock to the corporation, and that the law will consequently imply like warranties of title and genuineness in both cases. *Boston & Albany R. R. Co. v. Richardson* (1883) 135 Mass. 473. It seems apparent that a person who presents a transfer for registration is not in a situation similar to a vendor.

Second. Where the transfer is made under a forged power of attorney the innocent converter is liable upon a warranty of authority implied in law, because he makes a representation implied in fact that he has authority. *Starkey v. Bank of England* [1903] A. C.